



ఆంధ్రప్రదేశ్ రాజ పత్రము
THE ANDHRA PRADESH GAZETTE
PUBLISHED BY AUTHORITY

PART II EXTRAORDINARY

No.145

AMARAVATI, TUESDAY, DECEMBER 7, 2021

G.720

NOTIFICATIONS BY HEADS OF DEPARTMENTS, Etc.

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COMMISSIONER OF FOOD SAFETY
DIRECTORATE OF INSTITUTE OF PREVENTIVE MEDICINE,
PUBLIC HEALTH LABORATORIES AND FOOD (HEALTH)
ADMINISTRATION
GOLLAPUDI, VIJAYAWADA, KRISHNA DISTRICT.

Notification No.318/FSSA/AP/2014-21.

Dated: 06-12-2021.

FOOD SAFETY AND STANDARD ACT, 2006 - IMPOSITION OF PROHIBITION UNDER SECTION 30(2)(a) OF THE SAID ACT ON MANUFACTURE, STORAGE, DISTRIBUTION, TRANSPORTATION AND SALE OF GUTKA / PANMASALA WHICH CONTAINS TOBACCO AND NICOTINE AS INGREDIENTS AND CHEWING TOBACCO PRODUCTS LIKE CHAP TOBACCO, PURE TOBACCO, KHAINI, KHARRA, SCENTED TOBACCO/FLAVOURED TOBACCO OR BY WHATEVER NAME LOCALLY IT IS CALLED PACKED IN SACHETS / POUCHES / PACKAGED IN THE ENTIRE STATE OF ANDHRA PRADESH FOR A PERIOD OF ONE YEAR w.e.f 07/12/2021.

- Ref : 1) Food Safety and Standards Act, 2006.
2) Regulations 2.3.4 of Food Safety and Standards (Prohibition and Restrictions on sales) Regulations, 2011.
3) Orders passed by the Hon'ble Supreme Court in transfer Case (Civil) No (s). 1/2010.
4) G.O.Ms.No.150 of Health, Medical & Family Welfare(H.1) Dept., Dated: 30.11.2020.

ORDER:

The Government of India has enacted Food Safety and Standards Act 2006 (FSS Act) to regulate and monitor the manufacturing, processing, packing, storage, transport, distribution, sale of any food or food ingredient, so as to ensure availability of safe and wholesome food for human consumption.

Whereas Section 3(1) (j) of FSS Act, 2006 defines that “Food” means any substances, whether processed, partially processed or unprocessed, which is intended for human consumption and includes primary food to the extent defined in clause (zk), genetically modified *or* engineered food or food containing such ingredient, infant food, packaged drinking water, alcoholic drink, chewing gum, and any substances, including water used into the food during its manufacture, preparation *or* treatment but does not include any animal feed, live animals unless they are prepared or processed for placing on the market for human consumption, plant, prior to harvesting, drugs and medicinal products, cosmetics, narcotic *or* psychotropic substances.

The Hon’ble Supreme Court of India in Godawat Pan Masala vs Union of India, 2004(7), SCC 68 while dealing case on prohibition on sale of Gutkha in the States on 02-08-2004 vide Civil Appeal No. 4674 of 2004 (SLP (C) No. 24449 of 2002) held that Gutkha/Panmasala having Tobacco or Nicotine are food items. Gutkha / Panmasala which contains Tobacco and Nicotine are food items. Gutkha/Panmasala which contains tobacco and Nicotine as ingredients and Chewing Tobacco products like Chap tobacco, Pure tobacco, Khaini, Kharra, Scented Tobacco / Flavoured Tobacco packed in pouches/sachets/containers etc., or by whatever name it is called inherently falls within the definition of “food” as defined under Section 3(1) (j) of FSS Act, 2006.

Scientific reports/ opinions of ICMR (Indian Council of Medical research) and NIHFW (National Institute of Health and Family Welfare) demonstrate the extremely harmful effects of consumption of Gutkha / Panmasala /Chewing Tobacco such as Cancers, (Oral pre-malignant lesions/conditions) – Oesophageal cancer, stomach cancer, Pancreatic Cancer, Throat (Pharynx and larynx) cancer, renal cancer, Non-cancerous deterioration of Oral-dental health, Hypertension & Cardiovascular diseases. Consumption of such products is injurious to health.

As per Section 18(1)(a) of FSS Act, 2006 it is the Government’s endeavor to achieve an appropriate level of protection of human life and health.

Whereas Regulation 2.3.4 of FSS(Prohibition and Restrictions on sales) Regulations 2011 made under the FSS Act, 2006 mandates that Tobacco and Nicotine shall not be used as ingredients in any food products.

“Whereas the Hon’ble Supreme Court of India passed the Orders in 3rd reference cited above, the Learned Amicus Curiae has also pointed out that this Court has not granted any stay of Regulation 2.3.4 of the Food Safety and Standards (Prohibition & Restrictions on Sales) Regulations, 2011 and the concerned authorities are duty bound to enforce the said regulation framed under Section 92 read with Section 26 of the Food Safety & Standards Act, 2006.

In view of the above, the concerned statutory authorities are directed to comply with the above mandate of law. We also direct the Secretaries, Health Department of all the States and Union Territories to file their affidavits before the next date of hearing on the issue of total compliance of the ban imposed on manufacturing and sale of Gutkha and Pan Masala with tobacco and/or nicotine.”

Whereas the Commissioner of Food Safety has the power coupled with duty to prohibit in the interest of public health, the manufacture, storage, transportation, distribution, sale of any article of food, either in whole of the State or any area or part thereof for such period, not exceeding one year as per Section 30 sub-section (2) and Clause (a) of Food Safety and Standards Act, 2006.

Accordingly the following notification will be published in the Extra-ordinary issue of the Andhra Pradesh State Gazette.

Therefore, in exercise of the powers conferred under Clause (a) of Sub-section (2) of Section 30 of Food Safety and Standards Act, 2006 read with 2.3.4 of Food Safety and Standards (Prohibition and Restriction on Sales) Regulations, 2011 and in the interest of public health, the Commissioner of Food Safety, Andhra Pradesh State hereby prohibits the manufacture, storage, distribution, transportation and sale of Gutkha/Pan Masala which contains tobacco and nicotine as ingredients and Chewing Tobacco products like Chap Tobacco, Pure Tobacco, Khaini, Kharra, Scented Tobacco/ Flavoured Tobacco packed in pouches/sachets/containers etc., or by whatever name it is called in the entire State of Andhra Pradesh for a period of one year with effect from 07th December, 2021.

BHASKAR KATAMNENI,
Commissioner of Food Safety,
Andhra Pradesh.

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